

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 13th DAY OF OCTOBER, 2009 AT 6:30 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Annette S. Perkins	-Chair
	James D. Politis	-Vice Chair
	Mary W. Biggs	-Supervisors
	William H. Brown	
	Gary D. Creed	
	Doug Marrs	
	John A. Muffo	
	F. Craig Meadows	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	Steve Sandy	-Planning Director
	Ruth L. Richey	-Public Information Officer
	Vickie L. Swinney	-Secretary, Board of Supervisors

CALL TO ORDER

The Chair called the meeting to order.

INTO CLOSED MEETING

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- Section 2.2-3711 (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of an Public Body
1. Adjustment and Appeals Board
 2. Personnel

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Gary D. Creed	None
William H. Brown	
James D. Politis	
Mary W. Biggs	
Doug Marrs	
John A. Muffo	
Annette S. Perkins	

OUT OF CLOSED MEETING

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
William H. Brown	None
James D. Politis	
Mary W. Biggs	
Doug Marrs	
John A. Muffo	
Gary D. Creed	
Annette S. Perkins	

CERTIFICATION OF CLOSED MEETING

On a motion by Gary D. Creed, seconded by William H. Brown and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law

were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

James D. Politis
Mary W. Biggs
Doug Marrs
John A. Muffo
Gary D. Creed
William H. Brown
Annette S. Perkins

NAYS

None

ABSENT DURING VOTE

None

ABSENT DURING MEETING

None

INVOCATION

A moment of silence was lead by Chair Perkins.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

DELEGATION

Virginia Department of Transportation

David Clarke, VDOT Residency Administrator, updated the Board of Supervisors on road issues/concerns in Montgomery County as follows:

- Work has begun on Mt. Pleasant Road (SR 639) – Completion Date is November 12, 2009. This project is priority #1 on the Six Year Secondary Road Improvement Plan.
- Mt. Zion Road (SR 622) – Paving to begin the week of October 19, from Glade/Brookfield to Keisters Branch. This is on the Six-Year Secondary Road Improvement Plan using federal funds.

- Rustic Ridge Road (SR 616)– maintenance work being done.
- Blue Springs Road (SR 613)– Bridge: Preliminary scoping work is being done on the bridge on Blue Springs Road. This bridge is on VDOT's Bridge Replacement List and will be funded by the state, no county money. They are still in the early stages, and the construction to replace the bridge is at least 2 years away.
- VDOT applied for highway safety funds to install a left hand turn at the intersection of Rt. 8 and Fairview Church Road. Don't know if they will be approved due to the limited funds and the large number of applications.

The Board of Supervisors had the following requests:

Supervisor Politis:

- Brush Creek Road (SR 617)–reported that VDOT cleaned out the ditches along a curve near the church on Brush Creek Road. In doing so they narrowed the road. Is there something that can be done? Also, there is a rippling of the road.
- Received a request from a citizen who lives on Piney Woods Road (SR 600) about the status of upgrading this road. Piney Woods Road is listed on the Six Year Road Plan for construction with federal money. Mr. Clarke replied that only the preliminary engineering work is funded. There is no money allocated for the construction.

Supervisor Creed:

- Requested VDOT to reevaluate the request he reported at the Board's August 24, 2009 meeting, to look into a complaint from Marty Childress, who lives off of Oldtown Road (SR 763), that gravel from Ryan Road (SR 822) keeps washing down his yard. Mr. Clarke misunderstood and thought the gravel was washing down from a private road not a state maintained road. He will review the issue again.

PUBLIC HEARINGS

General Obligation School Bond

A resolution authorizing the issuance of not to exceed \$8,250,000 principal amount of a General Obligation School Bond of the County of Montgomery, Virginia. The Bond is to be issued for financing capital projects for public school purposes and is to be sold to the Virginia Public School Authority.

The County Attorney summarized the request to issue General Obligation School Bonds. The proceeds from the sale of the school bonds will help with the costs of the acquisition, design, construction, equipping, renovation and furnishing of the Elliston-Lafayette Elementary School. The bonds are part of the federal stimulus money put in place for school construction with no interest charged on the loan.

The County Attorney explained that the resolution to authorize the issuance of the bonds is included on the agenda under Old Business for the Board's consideration.

There being no speakers, the public hearing was closed.

PUBLIC ADDRESS

There being no speakers, the public address session was closed.

ADD TO THE AGENDA - ADDENDUM

On a motion by James D. Politis, seconded by William H. Brown and carried unanimously, the following addendum dated October 13, 2009 was added to the Consent Agenda:

1. Rescind Appointment Resolution to the Agency on Aging dated September 14, 2009 and consider new appointments.

The vote on the foregoing motion was as follows:

AYE	NAY
Mary W. Biggs	None
Doug Marrs	
John A. Muffo	
Gary D. Creed	
William H. Brown	
James D. Politis	
Annette S. Perkins	

CONSENT AGENDA

On a motion by James D. Politis, seconded by Doug Marrs and carried unanimously, the Consent Agenda dated October 13, 2009 was approved.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
John A. Muffo	
Gary D. Creed	
William H. Brown	
James D. Politis	
Mary W. Biggs	
Annette S. Perkins	

Approval of Minutes

On a motion by James D. Politis, seconded by Doug Marrs and carried unanimously, the minutes dated June 10, June 15, and June 22, 2009 were approved.

Schedule Public Hearing

R-FY-10-62

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA, SCHEDULING A PUBLIC HEARING ON A PROPOSED ORDINANCE AMENDING CHAPTER 1 ENTITLED GENERAL PROVISIONS, SECTION 1-6 OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA BY IMPOSING A THREE DOLLAR (\$3.00) FEE AS PART OF COURT COSTS IN CIVIL, CRIMINAL OR TRAFFIC CASES IN DISTRICT OR CIRCUIT COURT WITH THE PROCEEDS TO BE USED SOLELY FOR THE CONSTRUCTION, RENOVATION OR MAINTENANCE OF A COURTHOUSE

On a motion by James D. Politis, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby agrees to schedule a public hearing on November 12, 2009, at 7:15 p.m. or as soon thereafter at the Montgomery County Government Center, 2nd Floor Board Room, 755 Roanoke Street, Christiansburg, Virginia, to hear citizen comments on the proposed Ordinance Amending Chapter 1 entitled General Provisions Section 1-6 of the Code of the County of Montgomery Virginia, by imposing a three dollar (\$3.00) fee as part of court costs in civil, criminal or traffic cases in District or Circuit Court with the proceeds to be used solely for the construction, renovation or maintenance of a courthouse.

Appropriations and Transfers

A-FY-10-46

FIRE PROGRAM FUND

On a motion by James D. Politis, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2010 for the function and in the amount as follows:

23311 Fire Program Fund Distribution	\$74,785
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>	
424401	Fire Program Fund Distribution
	\$74,785

Said resolution appropriates funds received from the Fire Program Fund for use by volunteer fire departments.

A-FY-10-47
SHERIFF
RECOVERED COSTS

On a motion by James D. Politis, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2010, for the function and in the amount as follows:

320	Sheriff County	\$3,378
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>	
419108	Recovered Costs

\$3,378

Said resolution appropriates recovered costs for use by the Sheriff's department.

A-FY-10-48
SHERIFF
COPS TECHNOLOGY GRANT

On a motion by James D. Politis, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2010, for the function and in the amount as follows:

323	Sheriff Grants	\$100,000
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>	
434401	Federal Grants

\$100,000

Said resolution appropriates grant monies from the Community Oriented Policing Services (COPS) Technology Grant Program.

R-FY-10-63
ADDITION TO THE SECONDARY SYSTEM OF STATE HIGHWAYS
PEAKLAND WAY EXTENSION AND HITCHING POST DRIVE EXTENSION

On a motion by James D. Politis, seconded by Doug Marrs and carried unanimously,

WHEREAS, The streets described below are shown on a plat in the Clerk's Office of the Circuit Court of Montgomery County; and

WHEREAS, The representative for the Virginia Department of Transportation has advised the Montgomery County Board of Supervisors that the streets meet the requirement established by the Virginia Department of Transportation's Subdivision Street Requirements.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia requests the Virginia Department of Transportation to add the following street to the secondary system of state highways, pursuant to Section 33.1-229, Code of Virginia and the Department's Subdivision Street Requirements, after receiving a copy of this resolution and all outstanding fees and documents required of the developer:

ADDITION:

Heritage Place Subdivision Phase 4-B

<u>Name of Street:</u>	<u>Length</u>
<u>Peakland Way extension (SR 1289)</u>	
From: 0.41 mi W. intersection of Hitching Post Drive (SR 1242)	0. 48 mi
To: 0.89 mi. W. intersection of Hitching Post Drive (SR 1242)	
Plat Book: 27, Pages 337-342	
Right of Way Width: 50 feet	

Hitching Post Drive extension (SR 1242)

From: 0.14 mi. N. intersection of Dunnington Ct (SR 1244)	0. 30 mi
To: 0.44 mi. N. intersection of of Dunnington Ct (SR 1244)	
Plat Book: 27, Pages 337-342	
Right of Way Width: 50 feet	

BE IT FURTHER RESOLVED, The Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED, That a certified copy of this resolution be forwarded to the Residency Administrator for the Virginia Department of Transportation.

R-FY-10-64
RESOLUTION RESCINDING THE RESOLUTION
DATED SEPTEMBER 14, 2009
APPOINTMENT TO THE AGENCY ON AGING
AND NEW APPOINTMENT TO THE AGENCY ON AGING

On a motion by James D. Politis, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisor of Montgomery County, Virginia, that the Board of Supervisors hereby rescinds its resolution dated September 14, 2009 appointing L. Carol Edmonds to the New River Valley Agency on Aging, and appointing Mary W. Biggs as her alternate.

BE IT FURTHER RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Robert E. Gribben** to the New River Valley Agency on Aging effective October 1, 2009 and expiring September 30, 2010.

BE IT FURTHER RESOLVED, The Board of Supervisors hereby appoints **Elizabeth H. Doyle** as an **alternate** to the **New River Valley Agency on Aging** effective October 1, 2009 and expiring September 30, 2010.

OLD BUSINESS

R-FY-10-65
RESOLUTION AUTHORIZING THE ISSUANCE OF A NOT TO EXCEED
\$8,250,000 GENERAL OBLIGATION SCHOOL BOND, SERIES 2009,
OF THE COUNTY OF MONTGOMERY, VIRGINIA, TO BE SOLD TO
THE VIRGINIA PUBLIC SCHOOL AUTHORITY
AND PROVIDING FOR THE FORM AND DETAILS THEREOF
NEW ELLISTON/SHAWSVILLE AREA ELEMENTARY SCHOOL

On a motion by Gary D. Creed, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The Board of Supervisors (**the “Board”**) of the County of Montgomery, Virginia (**the “County”**), has determined that it is necessary and expedient to borrow an amount not to exceed \$8,250,000 and to issue its general obligation school bond (**as more specifically defined below, the “Local School Bond”**) for the purpose of financing capital projects for school purposes described in **Exhibit A** hereto; and

WHEREAS, The County held a public hearing, duly noticed, on October 13, 2009, on the issuance of the Local School Bond in accordance with the requirements of Section 15.2-2606, Code of Virginia 1950, as amended (**the “Virginia Code”**); and

WHEREAS, The School Board of the County has, by resolution, requested the Board to authorize the issuance of the Local School Bond and consented to the issuance of the Local School Bond; and

WHEREAS, The Bond Sale Agreement (as defined below) shall indicate that \$7,500,000 is the amount of proceeds requested (**the “Proceeds Requested”**) from the Virginia Public School Authority (**“VPSA”**) in connection with the sale of the Local School Bond; and

WHEREAS, VPSA’s objective is to pay the County a purchase price for the Local School Bond which, in VPSA’s judgment, reflects the Local School Bond’s market value (**the “VPSA Purchase Price Objective”**), taking consideration of such factors as the purchase price to be received by VPSA for its bonds (**the “VPSA Bonds”**), the underwriters’ discount and the other issuance costs of the VPSA Bonds and other market conditions relating to the sale of the VPSA Bonds; and

WHEREAS, Such factors may result in the Local School Bond having a purchase price other than par and consequently (i) the County may have to issue the Local School Bond in a principal amount that is greater than or less than the Proceeds Requested in order to receive an amount of proceeds that is substantially equal to the Proceeds Requested, or (ii) if the maximum authorized principal amount of the Local School Bond set forth in Section 1 of this Resolution does not exceed the Proceeds Requested by at least the amount of any discount, the purchase price to be paid to the County, given the VPSA Purchase Price Objective and market conditions, will be less than the Proceeds Requested; and

WHEREAS, VPSA intends to issue the VPSA Bonds to purchase the Local School Bond and the local school bonds of certain other localities (i) as “qualified school construction bonds” within the meaning of Section 54F of the Internal Revenue Code of 1986, as amended (**the “Tax Code”**), which section was added to the Tax Code by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 123 Stat. 355), enacted on February 17, 2009, and (ii) pursuant to allocations of the Commonwealth of Virginia’s share of the national limitation for qualified school construction bonds under Executive Order Number Ninety (2009) issued by the Governor of the Commonwealth of Virginia on September 4, 2009; and

WHEREAS, Qualified school construction bonds are taxable bonds designed to provide no- or very-low-cost financing for qualified public school projects by granting to the bondholders an annual credit against the bondholders’ federal income tax liability (including alternative minimum tax liability), which credit is intended to compensate the bondholders in lieu of interest.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA:

Authorization of Local School Bond and Use of Proceeds. The Board hereby determines that it is advisable to contract a debt and issue and sell its general obligation school bond in a principal amount not to exceed \$8,250,000 (**the “Local School Bond”**) for the purpose of financing capital projects for school purposes as described in **Exhibit A** and the issuance costs of the Local School Bond. The Board hereby authorizes the issuance and sale of the Local School Bond in the form and upon the terms established pursuant to this Resolution and the Bond Sale Agreement.

Sale of the Local School Bond. It is determined to be in the best interest of the County to accept the offer of VPSA to purchase from the County, and to sell to VPSA, the Local School Bond at a price, determined by VPSA to be fair and accepted by the Chairman of the Board and the County Administrator, or either of them. Given the VPSA Purchase Price Objective and market conditions, it may become necessary to sell the Local School Bond in a principal amount greater than the Proceeds Requested. If the limitation on the maximum principal amount on the Local School Bond set forth in Section 1 of this Resolution restricts VPSA's ability to generate the Proceeds Requested, the Local School Bond may be sold for a purchase price of not lower than 95% of the Proceeds Requested. The Chairman of the Board, the County Administrator, or either of them and such other officer or officers of the County as either may designate are hereby authorized and directed to enter into a Bond Sale Agreement with VPSA providing for the sale of the Local School Bond to VPSA. The agreement shall be in substantially the form submitted to the Board at this meeting, which form is hereby approved (**the "Bond Sale Agreement"**).

Details of the Local School Bond. The Local School Bond shall be dated the date of its issuance and delivery; shall be designated "General Obligation School Bond, Series 2009"; and shall mature on September 1 in the years (**each a "Principal Payment Date"**) and in the amounts (**the "Principal Installments"**) determined by the County Administrator, subject to the provisions of Section 4 of this Resolution. If and as necessary to conform the terms of the Local School Bond to the terms of the VPSA Bonds, the Local School Bond may bear interest at a supplemental coupon rate(s) determined by the County Administrator following the pricing of the VPSA Bonds, provided that no supplemental coupon rate shall exceed 2% per year.

Principal Installments. The Principal Installments shall be determined by the County Administrator at the direction of VPSA based on the final term to maturity of the VPSA Bonds, requirements imposed on VPSA by the nationally-recognized rating agencies and the final principal amount of the Local School Bond; provided that the principal amount of the Local School Bond shall not exceed the amount authorized by this Resolution and the final maturity of the Local School Bond shall be no later than 18 years after its date of delivery. The execution and delivery of the Local School Bond as described in Section 9 hereof shall conclusively evidence the final Principal Installments as having been accepted as authorized by this Resolution.

Certain Investment Earnings. The Board hereby acknowledges that VPSA will (i) issue the VPSA Bonds with a single "bullet" maturity on a maturity date on or shortly before the latest maturity date permitted for the VPSA Bonds under Section 54A of the Tax Code and (ii) invest the Principal Installments for the benefit of the County until they are applied to pay the principal of the VPSA Bonds and (iii) either remit the investment earnings periodically to the County or credit the investment earnings against the County's obligation to make Principal Installments, at the option of VPSA. The Board further acknowledges that VPSA may cause a portion of such earnings to be deposited into a reserve fund or account to be applied by VPSA for use to pay the costs, fees and expenses described in Section 14 below. Any balance in such reserve fund or account attributable to investment earnings on the County's Principal Installments as reasonably determined by VPSA will be remitted or credited to the County on the final maturity date of the VPSA Bonds.

Form of the Local School Bond. The Local School Bond shall be initially in the form of a single, temporary typewritten bond substantially in the form attached hereto as **Exhibit B.**

Payment; Paying Agent and Bond Registrar. The following provisions shall apply to the Local School Bond:

For as long as VPSA is the registered owner of the Local School Bond, all payments of principal of and interest, if any, and premium, if any, on the Local School Bond shall be made in immediately available funds to VPSA at, or before 11:00 a.m. on the applicable Principal Payment Date or date fixed for prepayment or redemption, or if such date is not a business day for Virginia banks or for the Commonwealth of Virginia, then at or before 11:00 a.m. on the business day next succeeding such Principal Payment Date or date fixed for payment, prepayment or redemption.

The Bond Registrar and Paying Agent for the Local School Bond shall be the banking institution selected by VPSA for such purposes.

Prepayment or Redemption. The Principal Installments of the Local School Bond are not subject to optional prepayment or redemption prior to their stated maturities. The Principal Installments of the Local School Bond will be subject to extraordinary mandatory redemption (i) if certain proceeds of the Local School Bond have not been spent within three years after the date of its issuance and delivery (which three year period may be extended by the U.S. Secretary of the Treasury or his delegate), and (ii) due to a loss of “qualified tax credit bond” and “qualified school construction bond” status of the VPSA Bonds corresponding to the Local School Bond under Sections 54A and 54F of the Tax Code, at the redemption prices and upon the other terms set forth in the Local School Bond.

Execution of the Local School Bond. The Chairman or Vice Chairman and the Clerk or any Deputy Clerk of the Board are authorized and directed to execute and deliver the Local School Bond and to affix the seal of the County thereto.

Pledge of Full Faith and Credit. For the prompt payment of the principal of and interest, if any, and premium, if any, on the Local School Bond as the same shall become due, the full faith and credit of the County are hereby irrevocably pledged, and in each year while any of the Local School Bond shall be outstanding there shall be levied and collected in accordance with law an annual ad valorem tax upon all taxable property in the County subject to local taxation sufficient in amount to provide for the payment of the principal of and interest, if any, and premium, if any, on the Local School Bond as such principal and premium, if any, shall become due, which tax shall be without limitation as to rate or amount and in addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purpose.

Use of Proceeds Certificate and Tax Compliance Agreement. The Chairman of the Board, the County Administrator and such other officer or officers of the County as either may designate are hereby authorized and directed to execute and deliver on behalf of the County a Use of Proceeds Certificate and Tax Compliance Agreement (**the “Tax Compliance Agreement”**) setting forth the expected use and investment of the proceeds of the Local School

Bond and containing such covenants as may be necessary in order to show the compliance of the VPSA Bonds with the provisions of the Tax Code and applicable regulations relating to the qualification of the VPSA Bonds as “qualified tax credit bonds” and “qualified school construction bonds” under Sections 54A and 54F of the Tax Code. The Board covenants on behalf of the County that (i) the proceeds from the issuance and sale of the Local School Bond will be invested and expended as set forth in the Tax Compliance Agreement and that the County shall comply with the other covenants and representations contained therein and (ii) the County shall comply with the provisions of the Tax Code so that the VPSA Bonds will not lose their status as “qualified tax credit bonds” and “qualified school construction bonds” under Sections 54A and 54F of the Code

State Non-Arbitrage Program; Proceeds Agreement. The Board hereby determines that it is in the best interests of the County to authorize and direct the County Treasurer to participate in the State Non-Arbitrage Program in connection with the Local School Bond. The Chairman of the Board, the County Administrator and such officer or officers of the County as either may designate are hereby authorized and directed to execute and deliver a Proceeds Agreement with respect to the deposit and investment of proceeds of the Local School Bond by and among the County, the other participants in the sale of the VPSA Bonds, VPSA, the investment manager and the depository, substantially in the form submitted to the Board at this meeting, which form is hereby approved.

Continuing Disclosure Agreement. The Chairman of the Board, the County Administrator and such other officer or officers of the County as either may designate are hereby authorized and directed to execute a Continuing Disclosure Agreement, as set forth in Appendix F to the Bond Sale Agreement, setting forth the reports and notices to be filed by the County and containing such covenants as may be necessary in order to show compliance with the provisions of the Securities and Exchange Commission Rule 15c2-12, under the Securities Exchange Act of 1934, as amended, and directed to make all filings required by Section 3 of the Bond Sale Agreement should the County be determined by the VPSA to be a MOP (as defined in the Continuing Disclosure Agreement).

Fees, Costs and Expenses. The County agrees to pay the following fees, costs and expenses incurred by VPSA in connection with its purchase and carrying of the Local School Bond within thirty days after receipt by the County Administrator of a written bill therefor:

(A) The County’s share of the fees, costs and expenses of the trustee, paying agent and bond registrar under the indenture pursuant to which VPSA will issue the VPSA Bonds and any other fees, costs and expenses payable to third parties in connection with such indenture or VPSA’s School Tax Credit Bond Program, as determined by VPSA; and

(B) **To the extent permitted by law, the** reasonable fees, costs and expenses, including reasonable attorneys’ fees, if any, incurred by VPSA in connection with any false representation or certification or covenant default by the County or any County or School Board official, employee, agent or contractor under the Local School Bond, the Continuing Disclosure Agreement, the Tax Compliance Agreement, the Proceeds Agreement and/or any document, certificate or instrument associated therewith

(collectively, the “County Documents”), or in connection with any extraordinary mandatory redemption of the Local School Bond as described in Section 8 above and the corresponding VPSA Bonds, any amendment to or discretionary action that VPSA makes or undertakes at the request of the County under any of the County Documents or any other document related to the VPSA Bonds.

Filing of Resolution. The appropriate officers or agents of the County are hereby authorized and directed to cause a certified copy of this Resolution to be filed with the Circuit Court of the County.

Election to Proceed under Public Finance Act. In accordance with Section 15.2-2601 of the Virginia Code, the Board elects to issue the Local School Bond, pursuant to the provisions of the Public Finance Act of 1991, Chapter 26 of Title 15.2 of the Virginia Code.

Further Actions. The members of the Board and all officers, employees and agents of the County are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the issuance and sale of the Local School Bond and any such action previously taken is hereby ratified and confirmed.

Effective Date. This Resolution shall take effect immediately.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
Gary D. Creed	
William H. Brown	
James D. Politis	
Mary W. Biggs	
Doug Marrs	
Annette S. Perkins	

EXHIBIT A

DESCRIPTION OF CAPITAL PROJECTS FOR SCHOOL PURPOSES TO BE FINANCED BY LOCAL SCHOOL BOND

The costs of the acquisition, design, construction, equipping, renovation and furnishing of the existing Elliston-Lafayette Elementary School.

EXHIBIT B
[FORM OF TEMPORARY BOND]

NO. TR-1

\$ _____

UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
COUNTY OF MONTGOMERY
General Obligation School Bond
Series 2009

The COUNTY OF MONTGOMERY, VIRGINIA (**the “County”**), for value received, hereby acknowledges itself indebted and promises to pay to the VIRGINIA PUBLIC SCHOOL AUTHORITY (**“VPSA”**) the principal amount of _____ DOLLARS (\$_____), in annual installments in the amounts set forth on Schedule I attached hereto commencing on September 1, 20 and continuing each September 1 thereafter to and including September 1, 20____ (**each a “Payment Date”**), subject to redemption as hereinafter provided. This Bond shall [not bear interest] [bear interest at a rate equal to ____% per year]. The principal of and premium, if any, on this Bond are payable in lawful money of the United States of America. This Bond shall not bear interest.

For as long as the VPSA is the registered owner of this Bond, _____, as bond registrar (**the “Bond Registrar”**), shall make all payments of the principal of and premium, if any, on this Bond, without the presentation or surrender hereof, to the VPSA, in immediately available funds at or before 11:00 a.m. on the applicable Payment Date or date fixed for redemption. If a Payment Date or date fixed for redemption is not a business day for banks in the Commonwealth of Virginia or for the Commonwealth of Virginia, then the payment of the principal of and interest, if any, and premium, if any, on this Bond shall be made in immediately available funds at or before 11:00 a.m. on the business day next succeeding the scheduled Payment Date or date fixed for payment or redemption. Upon receipt by the registered owner of this Bond of said payments, written acknowledgment of the receipt thereof shall be given promptly to the Bond Registrar, and the County shall be fully discharged of its obligation on this Bond to the extent of the payment so made. Upon final payment, this Bond shall be surrendered to the Bond Registrar for cancellation.

The full faith and credit of the County are irrevocably pledged for the payment of the principal of and interest, if any, and the premium, if any, on this Bond. The resolution adopted by the Board of Supervisors of the County on October 13, 2009 (**the “Local Resolution”**), authorizing the issuance of this Bond provides, and Section 15.2-2624, Code of Virginia 1950, as amended (**the “Virginia Code”**), requires, that there shall be levied and collected an annual tax upon all taxable property in the County subject to local taxation sufficient to provide for the payment of the principal and interest, if any, and premium, if any, on this Bond as the same shall become due which tax shall be without limitation as to rate or amount and shall be in addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purpose.

This Bond is duly authorized and issued in compliance with and pursuant to the Constitution and laws of the Commonwealth of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2, of the Virginia Code, and the Local Resolution and a resolution duly adopted by the School Board of the County to provide funds for capital projects for school purposes.

This Bond is registered in VPSA's name on the books of the County kept by the Bond Registrar, and the transfer of this Bond may be effected by the registered owner of this Bond only upon due execution of an assignment by such registered owner. Upon receipt of such assignment and the surrender of this Bond, the Bond Registrar shall exchange this Bond for a substitute Bond, and register such substitute Bond on such registration books in the name of the assignee or assignees named in such assignment.

The principal installments of this Bond are not subject to optional prepayment or redemption prior to their stated maturities.

Upon not less than 15 days' written notice from VPSA to the Bond Registrar, this Bond is subject to mandatory redemption in whole or in part in an amount to be specified by VPSA on a date to be fixed by VPSA in the event that, due to a failure by the County to cause 100% of the Available Project Proceeds to be expended by the end of the Expenditure Period for Qualified Purposes, VPSA must redeem a portion of its School Tax Credit Bonds (Qualified School Construction Bonds), Series 2009-1 (**the "VPSA Bonds"**), pursuant to Section 54A(d)(2)(B)(i) of the Internal Revenue Code of 1986, as amended (**the "Tax Code"**), and Section 4.1(b) of the First Supplemental Trust Indenture dated as of October 1, 2009 (**the "First Supplemental Indenture"**), between VPSA and _____, as trustee. The redemption price shall be equal to 100% of the principal amount of this Bond to be redeemed plus a premium equal to any outstanding fees, costs and expenses for which the County is or will become obligated to pay under Section 14 of the Local Resolution as determined by VPSA.

Upon not less than 15 days' written notice from VPSA to the Bond Registrar, this Bond is also subject to mandatory redemption in whole or in part in an amount to be specified by VPSA on a date to be fixed by VPSA if, due to a default by the County under the Use of Proceeds Certificate and Tax Compliance Agreement dated the dated date hereof (**the "Tax Compliance Agreement"**), between VPSA and the County, there occurs a Determination of Loss of QSCB Status (as defined in the First Supplemental Indenture) with respect to all or any portion of the VPSA Bonds. The redemption price shall be equal to 100% of the principal amount to be redeemed plus (i) a premium equal to the redemption premium and other amounts VPSA will be obligated to pay in connection with the extraordinary mandatory redemption of the VPSA Bonds under Section 4.1(c) of the First Supplemental Indenture and (ii) any outstanding fees, costs and expenses for which the County is or will become obligated to pay under Section 14 of the Local Resolution, all as determined by VPSA.

Unless otherwise defined, each of the capitalized terms used in the foregoing two paragraphs has the meaning given it in the Tax Compliance Agreement.

All acts, conditions and things required by the Constitution and laws of the Commonwealth of Virginia to happen, exist or be performed precedent to and in the issuance of

this Bond have happened, exist and have been performed in due time, form and manner as so required, and this Bond, together with all other indebtedness of the County, is within every debt and other limit prescribed by the Constitution and laws of the Commonwealth of Virginia.

**R-FY-10-66
SPECIAL USE PERMIT
WILLIAM E. & SUSAN MCGANN OSBORNE
(AGENT: GAY AND NEEL)
FOR THE PURPOSE OF ALLOWING A
CONTRACTORS STORAGE YARD
IN THE PRICES FORK MAGISTERIAL DISTRICT (DISTRICT E)
PARCEL ID # 013253, 011315, TAX MAP NUMBERS 52-3-2C
AND A PORTION OF 52-3-2D.**

On a motion by William H. Brown, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the request by William E. & Susan McGann Osborne (**Agent: Gay and Neel**) request for a Special Use Permit (SUP) on approximately 3.385 acres in an Agriculture (A1) zoning district to allow a Landscape Contractors Storage Yard is consistent with the County's Comprehensive Plan and is hereby **approved** with the following conditions:

1. This special use permit authorizes use of the property for a landscape contractor's storage yard and shall conform to the Site Plan dated February 25, 2009 and revised March 19, 2009. No retail sales of any nature shall be permitted on the property.
2. No new structures or buildings or additions to the existing structures or buildings shall be placed on the property.
3. No more than fifteen (15) employee vehicles shall be parked on the property at any given time. No employee vehicles shall be parked on adjoining properties or within the VDOT right-of-way.
4. The contractor's storage yard shall not be open to the public and shall create no exterior impacts including noise, vibration, glare, odors, or electrical interference.
5. Equipment stored on the property shall be in good working condition at all times and shall be owned or leased by the property owner or property owner's landscape company.
6. There shall be no outdoor storage of tools or machinery on the property.
7. Storage of all landscaping materials to include but not be limited to trees, block and piping shall be screened from view of adjacent properties.

8. No trash, litter or debris shall accumulate or be stored on the property.
9. The only repair work permitted on the property shall be on vehicles owned or leased by the property owner or the property Owner's Landscape Company. Unless manufactured as off-road vehicles, all vehicles stored on the property shall display current DMV plates and state inspection.
10. All fuel stored on the property shall meet all regulations and best management practices as required by VA DEQ.
11. Any lighting installed on the property shall be dusk to dawn, "full cut-off" type fixtures to avoid glare onto adjacent properties and shall comply with Montgomery County Zoning Ordinance 10-46(9) Performance Standards.
12. Hours of operation shall be limited to 7:00 am through 7:00 pm except for snow removal preparation.
13. A commercial entrance shall be constructed within one month of special use permit approval and shall be maintained to VDOT standards while the use is in existence.
14. A natural buffer shall be maintained surrounding the property consisting of mature evergreen vegetation. Replacement of said evergreen buffer, if necessary, shall be completed within thirty (30) days (season permitting) and shall consist at a minimum of two staggered rows of evergreen trees fifteen feet apart with trees spaced twenty (20) feet apart on center. Tree size shall be in compliance with zoning ordinance requirements.
15. Off-site vegetative debris may be brought on the property for mulching purposes only. There shall be no burning of any debris on the property unless authorized by local or State law.
16. A building permit for the existing metal building shall be applied for and an inspection requested by the property owner within thirty (30) days of the granting of this SUP. A final inspection of the building shall be completed and a Certificate of Occupancy granted within ninety (90) days of the granting of this special use permit.

The property is located at 1806 Brookfield Road and is identified as Tax Parcel No(s) 52-3-2C and a portion of 52-3-2D (Acct Nos. 013253, 011315), in the Prices Fork Magisterial District (District E). The property currently lies in an area designated as Rural in the Comprehensive Plan.

The vote on the foregoing resolution was as follows:

AYE

James D. Politis

Mary W. Biggs

Doug Marrs

Gary D. Creed

John A. Muffo

William H. Brown

Annette S. Perkins

NAY

None

NEW BUSINESS

**R-FY-10-67
MEMORANDUM OF UNDERSTANDING
BETWEEN THE COUNTY OF MONTGOMERY AND
NEW RIVER VALLEY COMMUNITY SERVICES
DEPARTMENT OF JUSTICE PLANNING GRANT**

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

WHEREAS, At their March 9, 2009 meeting, the Montgomery County Board of Supervisors agreed to serve as the agent for a federal grant application in partnership with the New River Valley Community Services (NRVCS); and

WHEREAS, Montgomery County would pass through the monies to the NRVCS for a Justice and Mental Health Program grant to support justice and mental health collaborations with our local law enforcement community and mental health consumers; and

WHEREAS, In September 2009, Montgomery County was awarded the grant in the amount of \$50,000, the purpose of which is to bring together stakeholders from the 14 law enforcement agencies in the New River Valley, NRVCS, the Mental Health Association of the New River Valley, and mental health consumers and advocates; and

WHEREAS, It was agreed that the NRVCS would have full responsibility for the management, reporting, services, compliance and audit of these federal grant monies and the County, as the applicant, would assign these responsibilities to the NRVCS, serving as a sub-recipient through a Memorandum of Understanding.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby enters into a Memorandum of Understanding between the County Of Montgomery and New River Valley Community Services for the administration of the Department of Justice Planning Grant.

BE IT FURTHER RESOLVED, The Board of Supervisors hereby authorizes F. Craig Meadows, County Administrator, to execute a Memorandum of Understanding on behalf of the Board of Supervisors.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
Doug Marrs	
Gary D. Creed	
John A. Muffo	
William H. Brown	
James D. Politis	
Annette S. Perkins	

**R-FY-10-68
VACO 2009 ANNUAL MEETING
VOTING CREDENTIALS**

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia authorizes **Annette S. Perkins**, Chair to the Board of Supervisors, to cast its vote at the 2009 Annual Meeting of the Virginia Association of Counties (VACo) on November 10, 2009.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
Gary D. Creed	
John A. Muffo	
William H. Brown	
James D. Politis	
Mary W. Biggs	
Annette S. Perkins	

INTO WORK SESSION

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. Citizen Appointments to Boards and Commissions
2. Legislative Priorities for 2010

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Gary D. Creed	None
John A. Muffo	
William H. Brown	
James D. Politis	
Mary W. Biggs	
Doug Marrs	
Annette S. Perkins	

Citizen Appointments to Boards and Commissions

Carol Edmonds, Assistant County Administrator, made a presentation on the current policy for citizen appointments. There are currently six separate resolutions adopted by the Board of Supervisors that govern various aspects of the policy for citizen appointments to Boards and Commissions. The first resolution was adopted in 1977, which was amended to add new requirements. Ms. Edmonds stated there is a need for one comprehensive policy resolution to incorporate all elements that are now included in various resolutions and by current practice.

The goal is to consolidate policies for citizen appointments into one policy resolution. This will ensure consistency in the processes and update all policies and procedures with the most recent changes.

Ms. Edmonds stated if it is the Board's desire, staff will move forward to develop one comprehensive policy governing citizen appointment. By consensus the Board approved for staff to move forward.

Legislative Priorities for 2010

The County Administrator provided a draft of Montgomery County's Legislative Priorities for 2010. A new item was added this year to request legislation be adopted to allow the jurisdictions in the New River Valley to create a Regional 911 Emergency Communications Authority. The County Administrator asked that the Board review the draft and provide him with any additions or deletions. A final copy will be added to the Board's October 26, 2009 agenda for consideration.

Supervisor Biggs asked if the priorities are in ranking order. The County Administrator replied the priorities were not ranked.

Supervisor Creed stressed the need to keep the priorities to one page instead of multiple pages.

Supervisor Politis asked for Board support to add to the County's Legislative Priorities for 2010 the request for state support for the growing of industrial hemp in Virginia. The General

Assembly must approve legislation/resolution requesting the Federal Government to allow the Commonwealth of Virginia the authority to grow industrial hemp. Supervisor Politis stated that industrial hemp should not be confused with marijuana, they are two different types of hemp. Industrial hemp contains virtually no THC, the active ingredient in marijuana. Industrial hemp has been used for centuries as a source of food and fabric/fiber. There are numerous uses for industrial hemp, such as oils, soaps, shampoos, hemp nut used for breads, cereal, and ice cream, hemp fiber used for rugs, socks, and apparel.

Supervisor Politis believes the Virginia farmers should be allowed the right to grow industrial hemp. It would allow diversity in farm operations. Other countries are allowed the right to grow industrial hemp and the United States is the only nation where farmers are prohibited. Supervisor Politis also reported that the United States is the largest consumer of raw hemp material which is imported from other countries.

Supervisor Creed asked if there was a marked difference in appearance. Would public safety/law enforcement officers tell the difference between industrial hemp and marijuana. Supervisor Politis replied they are similar in appearance; however, he believes there are more pros than cons to growing industrial hemp.

Supervisor Creed expressed concern with the regulation of industrial hemp and how to control what is legal versus the growing of marijuana.

Supervisor Brown agreed that this would be a public safety nightmare unless some regulation is put in place. He can see where this would increase law enforcement duties. He believes there is a need for research on this issue before allowing the growing of industrial hemp.

The majority of the Board believed that this issue should be before the state level and not local and could not support this issue unless additional information could be provided.

Supervisor Politis in closing stated that legislation to support growing industrial hemp has been before Virginia General Assembly in the past and referred to a committee for study. He believes that it does need to be before the State but it has to start somewhere and if there is enough local support then maybe the State leaders will vote it through.

The Board also discussed the need to include the re-opening of the rest areas along Interstate 81 in their legislative resolution. They believe the closure of the rest areas hurts the entire Commonwealth.

The County Administrator stated that the 2010 Legislative Priorities will be added to the October 26, 2009 agenda. Also, the Legislative meeting has been tentatively scheduled for Wednesday, November 18, 2009. The County will continue the tradition of sending invitations to both Towns, School Board, Department of Social Services and the Constitutional Officers.

OUT OF WORK SESSION

On a motion by Doug Marrs, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

The vote on the foregoing motion was as follows:

AYE

John A. Muffo
William H. Brown
James D. Politis
Mary W. Biggs
Doug Marrs
Gary D. Creed
Annette S. Perkins

NAY

None

COUNTY ADMINISTRATOR'S REPORT

The County Administrator reported on the following:

- Joinder Study – contacted everyone involved and stressed the County's desire to move forward with this issue.
- Toured the New River Community College facility located at the New River Valley Mall. Impressed with facility which is a great asset to Montgomery County.
- Inorganic Ventures – Ribbon Cutting is scheduled for Wednesday, October 19, 2009 at 9:30 a.m. They are located in the Falling Branch Corporate Park.
- H1N1 Flu – Staff is monitoring the H1N1 Flu and drafting a pandemic flu policy.

BOARD MEMBERS' REPORTS

Supervisor Biggs attended the School Board meeting where discussion centered around the vacant Superintendent position. The deadline for applications is October 27, 2009. They also discussed the upcoming budget needs for FY 10-11. The School Nutrition Department submitted a report on how nutritional needs are different for children than for adults.

Supervisor Politis asked the Board's support for a speed study to be conducted on Fairview Church Road beginning at the intersection of Rt. 8 to the intersection of Schoolhouse Road. He believes a petition is not necessary due to this section of the road being a high volume traffic area. Supervisor Politis requested that the Board's policy requiring a petition be amended and a speed study request be initiated upon the request of the Board of Supervisors.

R-FY-10-69
REQUEST THE VIRGINIA DEPARTMENT OF TRANSPORTATION
TO CONDUCT A SPEED STUDY ON FAIRVIEW CHURCH ROAD (SR 669)

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The Montgomery County Board of Supervisors has expressed concerns relative to the posted speed limit along the stretch of Fairview Church Road (SR 669) beginning at intersection with Rt. 8 to the intersection with Schoolhouse Road (SR 9267); and

WHEREAS, The Board of Supervisors would like VDOT to consider reducing the speed limit along this stretch of Fairview Church Road because there are residential subdivisions on both sides of Fairview Church Road, the school buses use Schoolhouse Road for their primary access to the Auburn Elementary School to avoid entering Rt. 8, and the only entrance to the Post Office is off Fairview Church Road.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby respectfully requests the Virginia Department of Transportation to conduct a speed study on Fairview Church Road (SR 669) beginning at the intersection with Rt. 8 to the intersection with Schoolhouse Drive (SR 9267) for approximately 0.42 mi to determine the feasibility of reducing the speed limit to 25 mph.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
Doug Marrs	
Mary W. Biggs	
William H. Brown	
Gary D. Creed	
James D. Politis	
Annette S. Perkins	

Board Reports' Continued

Supervisor Brown stated approximately 14-15 months ago, the County Engineer met with the Long Shop-McCoy Fire Chief regarding allocating funding for paving. He asked staff to look into this matter to see if the money was still available.

Supervisor Perkins reported a proposed joint meeting between the Board of Supervisors and School Board has been scheduled for November 30, 2009 hosted by the Board of Supervisors at the Government Center.

I-81 Corrdior Coalition – Attended the 2009 Conference and Annual meeting on October 12 -13, 2009 at the Hotel Roanoke. The Interstate 81 Corridor Coalition was organized to handle issues along Interstate 81, such as truck traffic and air pollution. The coalition is a partnership comprised of local, regional, and state organizations that are interested in sound transportation planning. The Coalition includes local governments, metropolitan planning organizations, and state transportation departments, as well as private sector and non-profit organizations. These partners are from each of the six states that the corridor runs through.

At this meeting it was decided to hire an executive director. The Coalition will be requesting donations from each state and local government to help cover the cost of planning and studying the I-81 Corridor.

ADJOURNMENT

On a motion by James D. Politis, seconded by William H. Brown and carried unanimously, the Board adjourned to Monday, October 26, 2009 at 6:00 p.m.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
William H. Brown	None
James D. Politis	
Mary W. Biggs	
Doug Marrs	
Gary D. Creed	
John A. Muffo	
Annette S. Perkins	

The meeting adjourned at 9:20 p.m.

APPROVED: _____	ATTEST: _____
Annette S. Perkins	F. Craig Meadows
Chair, Board of Supervisors	County Administrator